IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 10181 of 1995

For Approval and Signature:

Hon'ble MISS JUSTICE R.M. DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MOHMADBHAI RAHIMBHAI MUKHI

Versus

GUJARAT STATE CO-OP TRIBUNAL

Appearance:

1. Special Civil Application No. 10181 of 1995

MS KJ BRAHMBHATT for Petitioner No. 1

..... for Petitioner No. 2-3

NOTICE SERVED for Respondent No. 1,2

MR AR THACKER for Respondent No. 2

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 05/02/2003

ORAL JUDGEMENT

This is a petition preferred by the

judgment-debtors against the judgment and order dated 19th August, 1994 passed by the Gujarat State Cooperative Tribunal [hereinafter referred to as, "the Tribunal"] in Appeal No. 288 of 1993. The respondent no. 2 is a Cooperative Bank [hereinafter referred to as, "the Bank"].

The petitioner instituted Suit No. 889 of 1988 [re-numbered as 574 of 1990] in the Court of Board of Nominees, Mehsana against the present petitioners and one another for recovery of a sum of Rs. 27, 870=41 paise. It was the case of the Bank that in the year 1981, the defendant no. 1 [the petitioner no. 1 herein] had applied for a loan in the sum of Rs. 10,000/=. The defendants nos. 2 & 3 [the petitioners nos. 2 & 3 herein] had stood as the guarantors. The defendant no. 1 failed to repay the amount of loan and the interest thereon. A sum of Rs. 27,870=41 paise was outstanding against the defendant no. 1 as on 1st January, 1988. All the defendants were members of the Bank. Therefore, the suit for recovery.

The suit was contested by the defendants nos. 1 & 3. The defendants nos. 1 & 3 denied that the defendant no. 1 had ever applied for a loan. It was denied that the defendant no. 1 had received the loan money. It was denied that the defendant no. 3 had stood guarantor for the said loan transaction. The Board of Nominees was, under its judgement and order dated 21st June, 1993, pleased to dismiss the suit. The Board of Nominees did not believe the transaction and held that the documents against the defendants were concocted, sham and bogus. Feeling aggrieved, the Bank preferred above referred Appeal No. 289 of 1993 before the Tribunal. The Tribunal held that the documents in question were indeed signed by the defendants and decreed the suit. Feeling aggrieved, the defendants have preferred the present petition.

The only question that arises in this petition is whether the documents produced by the Bank in support of the loan transaction are genuine i.e., they had been signed by the defendants, as claimed by the Bank. I have perused the documents viz., the application for loan made by the defendant no.1, the promissory note signed by the defendant no. 1, the Kabulat signed by the defendant no. 1, the signatures of the defendants nos. 2 & 3 as the guarantors. The signatures of the defendants nos. 1, 2 & 3 as they appear on various documents viz., the written statement signed by the defendants nos. 1 & 3, the application dated 4th July, 1988 for adjournment made and

signed by the defendant no. 3., the Vakalatnamas signed by the defendants nos. 1, 2 & 3., the specimen signature given by the defendants nos.1 & 3, the signature of the defendant no. 1 as it appears on the cheque. It appears that the above referred loan documents and the cheque bear the signature "Mumad Rahim" [in Gujarati]. Whereas, the other documents bear the signature "Mahamd Rahim" or "Mahamadbhai Rahimbhai" [in Gujarati]. Thus, it appears that the defendant no. 1 does not have one consistent signature but he signs in different names as "Mumad" or "Mahamad". At places, he has signed as "Masi" and at some place as "Mukhi". The difference in the signature, therefore, is not sufficient to hold that the loan document do not possess the signature of the defendant no. 1 and that the said signatures have been forged, as alleged by him. Besides, the signature of the defendant no. 2 as a guarantor is the same as it appears in the Vakalatnama. The signature of the defendant no. 3 at all places is in similar hand. I, therefore, hold that the loan documents were indeed signed by the defendants, as asserted by the Bank. There being no other defence taken by the defendants, the Tribunal has rightly decreed the suit in favour of the Bank.

In the result, the petition is dismissed. Rule is discharged.

[Miss R.M Doshit, J.]

Prakash*